Applicability: UW Medicine

Policy Title: Use & Disclosure of Protected Health Information Permitted for Military & Veteran Activities and Homeland & National Security Activities

Policy Number: PP-16k

Superseded Policy(ies) or Entity Policy: N/A

Date Established: April 10, 2003

Date Effective: July 1, 2014

Dates Revised: May 21, 2007; April 8, 2010; October 1, 2012; January 10, 2013

Next Review Date: July 1, 2017

PURPOSE AND SCOPE
This policy describes the circumstances in which UW Medicine may use or disclose protected health information (PHI) for military and veteran activities and homeland and national security activities when the purpose of the use or disclosure is not for treatment, payment or healthcare operations nor authorized by the patient.

This policy is applicable to all UW Medicine entities.

POLICY PRINCIPLES/STATEMENT
See POLICY.

DEFINITIONS
See UW Medicine Compliance Policy: PP-00 Glossary of Terms.

POLICY

I. Military and Veteran Activities & Homeland and National Security Activities

A. Military and veteran activities.
   UW Medicine may disclose PHI to military healthcare professionals for treatment purposes.

B. Homeland and national security activities.
   UW Medicine may disclose to authorized federal officials when otherwise required by law for:

include the Federal Bureau of Investigation (FBI) or the Central Intelligence Agency (CIA), but does include, among others, the Immigration and Naturalization Service and the Secret Service. Many Homeland Security agents do not have a law enforcement basis for requiring the disclosure of PHI. Upon encountering an individual from Homeland Security who requests access to PHI, UW Medicine identifies which specific agency the requester is from, whether or not the requester has law enforcement power, the reason the requester wants the information, and the specific types of PHI that the requester seeks. If the individual does not have law enforcement power, then no PHI should be disclosed to the requestor.

2. The Secret Service: UW Medicine may disclose to the Secret Service when the Secret Service is acting in its capacity of providing protective services to the President, the President’s immediate family, past Presidents and certain heads of state.

3. National security issues: Disclosure of PHI to the Secret Service or other authorized federal officials relating to the conduct of lawful intelligence, counterintelligence and other national security activities conducted by the FBI and CIA may be made only if another exception permitting disclosure is met (signed authorization, imminent danger, appropriate law enforcement exception).

4. USA PATRIOT Act Court Orders: The USA PATRIOT Act\(^1\), as it amends the Foreign Intelligence Surveillance Act, allows the FBI to obtain specialized court orders for “any tangible thing” that could relate to “international terrorism or clandestine intelligence activities.” The court order must be made by a qualified court and the court order itself cannot be disclosed to any persons other than those necessary to carry out the order.\(^2\) Although Washington State law generally requires notifying a patient of a healthcare professional's disclosure of PHI, state law is preempted in this case. This means that the patient is not allowed to know that his or her PHI is being disclosed—this is the critical difference between a USA PATRIOT Act court order and any other court order presented to a hospital for the disclosure of PHI. USA PATRIOT Act court orders should not be made part of the medical record or included in a disclosure log.

II. Documentation of Disclosures

UW Medicine will document and retain in electronic or written format a record of all disclosures in accordance with the entity’s record retention policies and procedures. (See UW Medicine Compliance Policy: PP-25 Accounting of Disclosures of Protected Health Information).

---

\(^{1}\) Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001.

\(^{2}\) 50 USC 1861(d).
REGULATORY/LEGISLATION/REFERENCES
- 42 CFR, Part 2 – Confidentiality of Alcohol and Drug Abuse Patient Records
- 45 CFR Parts 160 and 164; Section 164.512 – Uses & Disclosures for Which Consent, Authorization or Opportunity to Agree or Object Is Not Required
- RCW 70.96A.150 – Records of Alcoholics and Intoxicated Persons.
- RCW 70.02 – Medical Records - Healthcare Information Access and Disclosure
- RCW 71.05.120 – Mental Health Records
- WAC 388-865-0640 – Mental Health Records

PROCEDURE ADDENDUM(s) REFERENCES/LINKS
- UW Medicine Compliance Policy: PP-00: Glossary of Terms
- UW Medicine Compliance Policy: PP-25: Accounting of Disclosures of Protected Health Information

ROLES AND RESPONSIBILITIES
Defined within POLICY.

AUTHORITIES

<table>
<thead>
<tr>
<th>Custodian</th>
<th>Responsible Officer</th>
<th>Implementation Officer</th>
<th>Administrative Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
</tr>
<tr>
<td>Author</td>
<td>Owner</td>
<td>Auditor</td>
<td>Endorser</td>
</tr>
<tr>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Executive Compliance Committee</td>
</tr>
</tbody>
</table>

APPROVALS

UW Privacy Official
Johnese M. Spisso, Chief Health System Officer,
UW Medicine & Vice President for Medical Affairs, UW